

REMARKS

In the non-final Office Action dated February 5, 2008, it is noted that claims 1 – 34 are pending; and that claims 1 – 34 stand rejected under 35 U.S.C. §103. Claims 1, 18 and 20 are independent.

Rejections under 35 U.S.C. §103(a)

Claims 1 – 2, 11, 14 – 17, 20 – 28 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McDonnell et al. (US Patent Application Publication 2002/0177449) in view of Yamanaka et al. (US Patent Application Publication 2001/0016834).

Claims 3 – 4, 6 – 8, 10, 29 – 31 and 34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McDonnell et al. in view of Yamanaka et al. further in view of Lamkin et al. (US Patent Application Publication 2004/0220926).

Claims 12 – 13 and 18 – 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McDonnell et al. in view of Yamanaka et al. further in view of Donian et al. (US Patent Application Publication 2004/0003398).

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over McDonnell et al. in view of Yamanaka et al. in view of Lamkin et al. further in view of Donian et al.

Claims 5 and 33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McDonnell et al. in view of Yamanaka et al. further in view of Ochiyama et al. (US Patent Application Publication 2004/0031377).

Response to Arguments

Applicants submit that for at least the following reasons, claim 1 is patentable over McDonnell et al. and Yamanaka et al., alone or in combination.

For example, claim 1 requires:

“the electronic advertising content comprising control commands that are receivable from a party other than the user and that are generated upon the user playing the electronic advertising content, the control commands enabling the electronic application to render the electronic content accessible to the user.” [Emphasis added]

In the Office Action, it is conceded by the Office that McDonnell et al. fail to disclose that the control commands are received as electronic advertising content comprising the control commands. Because of the deficiencies in McDonnell et al., the Office cited Yamanaka et al., which is directed to a digital content billing system using networks. It is alleged that Yamanaka et al. (Figs. 4 – 6; Abstract; page 1, paragraphs [0010] – [0016]; page 6, [0117] – [0118]; page 7, [0118] – [0127]; along with multiple other examples) discloses the above claimed feature. Applicants respectfully disagree.

In Yamanaka et al., the administrator downloads the execution key from the holder and the advertising information piece from the advertiser to the user. (See Figs. 4 and 5; paragraph [0127] lines 1 – 4). However, Yamanaka et al. do not teach or suggest any *control commands that are generated upon the user playing the electronic advertising content*. Apparently, Yamanaka et al. disclose that the execution key and the advertising information are originally two separate pieces of independent data, and that the administrator just attaches the execution key to the advertising information, and downloads them to the user at the same time (see Figs. 4 and 6; [0118] lines 4 – 8). However, Yamanaka et al. teach the access to the digital content using the execution key, but do not teach any control commands generating by the playing of the advertising information. Yamanaka et al., paragraph [0118] lines 9 – 10, disclose that “The downloading of the execution key to the user denotes a permission for the execution declaration.” This suggests that the user can access the digital content upon receiving the execution key, and therefore, the control commands **are not** generated upon the user playing the electronic advertising content.

Furthermore, Yamanaka et al., paragraph [0016] lines 5 – 11, suggest that the permission to use the digital content is downloaded to the user and that the advertising information piece is

inserted to the digital content so that the user can enjoy the digital content while seeing the advertising information piece. Yamanaka et al. teach a way to present advertising information to the user by inserting advertising information into the digital content so that the advertising information is played when the digital content is played. Therefore, in Yamanaka et al., the playing of the advertising information is activated by the playing of the digital content; and the access to the digital content is enabled by downloading the execution key, not by the playing of the advertising information. Yamanaka et al. do not require that “*the control commands enabling the electronic application to render the electronic content accessible to the user*” be “*generated upon the user playing the electronic advertising content*” as claimed.

In view of the foregoing, Applicants submit that claim 1 is patentable over McDonnell et al. and Yamanaka et al., alone or in combination. Independent claims 18 and 20 are also believed to be patentable because they contain similar distinguishing features as in claim 1. Applicants further submit that none of the cited secondary references can cure the deficiencies found in McDonnell et al. and Yamanaka et al. Therefore, claims 2 – 17, 19, 21 – 34 should also be patentable because they depend from claims 1, 18 and 20. Withdrawal of the rejection of claims 1 – 34 under U.S.C. 103(a) is respectfully requested.

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Respectfully submitted,

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